

SAMHSA's Center for Financing Reform & Innovations (CFRI)

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The Center for Financing Reform and Innovations (CFRI) provides information, analysis, products, and technical assistance to address changes in the organization and financing of behavioral health care, and to guide Federal officials, States, Territories, Tribes, communities, and private payers on the most effective and efficient use of available resources to meet the prevention, treatment, and recovery support needs of the American public.

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National News

- **Courts issue conflicting rulings on Health Insurance Marketplace subsidies.** On July 22, a [three-judge panel](#) of the **U.S. Court of Appeals for the District of Columbia** and a [three-judge panel](#) of the **U.S. Court of Appeals for the Fourth Circuit** issued conflicting rulings on the legality of ACA subsidies offered through federally-facilitated **Health Insurance Marketplaces**. According to the District of Columbia panel, federally-facilitated Marketplaces may not offer subsidies because a clause in the ACA states that subsidies will be available to individuals who are “enrolled in an Exchange established by the state.” However, the Fourth Circuit panel found that the **Internal Revenue Service** (IRS) may finalize rules that offer subsidies in all states, because the ACA is unclear regarding subsidies offered through a federally-facilitated Marketplace. According to the *Washington Post*, the **U.S. Department of Health and Human Services** (HHS) will appeal the District of Columbia panel’s decision *en banc* to the full court, and the panel’s decision will have no effect on consumers until the legal process is resolved. Meanwhile, plaintiffs in the 4th Circuit case appealed that decision directly to the **Supreme Court**. Currently, 36 states rely on federally-facilitated Marketplaces ([Washington Post, 7/22](#); [Politico, 7/31a](#); [Kaiser Health News, 7/22](#)).
- **HHS providing up to \$460 million for health care innovation.** Under round two of the **Health Care Innovation Awards** program, **HHS Secretary Sylvia Mathews Burwell** announced plans to award 39 prospective recipients in 27 states and the District of Columbia up to \$360 million to test innovative care models. Authorized under the ACA, awardees will focus on: (1) reducing costs for Medicare and Medicaid enrollees, (2) improving care for populations with special needs, (3) testing improved financial and clinical models, and (4) linking clinical care delivery to preventive and population health. Meanwhile, to expand Medicaid payment and delivery innovation, HHS announced plans to invest \$100 million in technical assistance to states through the newly created **Medicaid Innovation Accelerator Program**. Under the program, which was spurred by recommendations from the **National Governors Association**, HHS will support state-based innovation projects by providing data analytics, improving quality measurement and rapid cycle evaluation capabilities, and advancing effective and timely dissemination of best practices among states ([HHS, 7/9](#); [HHS, 7/14](#)).
- **HHS awards \$138 million to expand access to care, additional \$111 million available.** To expand access to care, **HHS** awarded \$83.4 million in **Teaching Health Center Graduate Medical Education** grants and \$54.6 million in **Health Center Program: Behavioral Health Integration** grants. Authorized under the ACA, the integration grants will support efforts to establish or expand behavioral health services at 221 health centers, and the teaching grants will support primary care residency programs at 60 teaching health centers. Meanwhile, on July 8, HHS announced plans to award up to \$100 million in **Health Center New Access Point** grants to support an estimated 150 new primary care health centers in 2015. Finally, HHS announced the availability of \$11 million in **Supplemental Funding to Increase HIV Prevention And Care Among Health Centers Partnering With State Health Departments**. Authorized under the ACA and the **Secretary’s Minority AIDS Initiative Fund**, HHS provided the funds to Florida, Massachusetts,

Maryland, and New York's health departments, which will issue grant opportunities for eligible health centers ([HHS, 7/7](#); [HHS, 7/31](#); [HHS, 7/8](#); [HHS, 7/15](#)).

- **Veterans Affairs bill provides funding for behavioral health services.** On August 7, **President Obama** signed a bill ([HR3230](#)) making administrative reforms to the **U.S. Department of Veterans Affairs** (VA) and providing \$17 billion in additional funding for services. Among other changes, the bill allocates \$5 billion to hire new medical and behavioral health providers. The bill also authorizes the VA to pay private health providers for care provided to veterans affected by VA backlogs or veterans who live more than 40 miles from a VA hospital or clinic ([AP via Washington Post, 7/31](#); [Politico, 7/31b](#); [The White House Blog, 8/7](#)).
- **DOD establishes new mental health provider for TRICARE enrollees.** To expand access to services, on July 17, the **U.S. Department of Defense** (DOD) finalized a [rule](#) implementing the **TRICARE Certified Mental Health Counselor** (TCMHC) as a qualified mental health provider for TRICARE enrollees. Replacing a 2011 interim rule, the rule follows **Institute of Medicine** recommendations for TCMHC education, examination, licensing, and experience requirements. According to the DOD, the rule also clarifies that TRICARE will continue to cover services from supervised mental health counselors and that no enrollees will experience a service disruption. TRICARE is a DOD health insurance program that covers civilian health care services for active duty, reservist, and retired military personnel ([DOD, 7/18](#)).
- **CMS proposes Medicare coverage for behavioral health telemedicine services.** On July 14, the **Centers for Medicare & Medicaid Services** (CMS) proposed a [rule](#) to update Medicare payment formulas and quality reporting systems for hospital outpatient and ambulatory surgical center services. Among other changes, the rule would expand the list of covered telemedicine services to include psychoanalysis and family therapy, with or without the client present. Additionally, the rule would allow health care providers to bill Medicare for telemedicine services provided to patients residing in any rural census tract, including those in metropolitan statistical areas (MSAs). Previously, all patients residing in MSAs were ineligible for such services ([Modern Healthcare, 7/7](#)).
- **SAMHSA seeks comment on FY2015-2018 Strategic Plan.** To continue its mission to increase the awareness and understanding of mental and substance use disorders, promote emotional health and wellness, address the prevention of substance abuse and mental illness, increase access to effective treatment, and support recovery, **SAMHSA** released its draft FY2015-2018 Strategic Plan, [Leading Change 2.0: Advancing the Behavioral Health of the Nation](#). According to **SAMHSA Administrator Pamela S. Hyde**, "[t]his strategic roadmap outlines SAMHSA's plans to build upon the success of its original strategic initiatives in promoting the behavioral health of the American people." The plan identifies six strategic initiatives and their links to SAMHSA's policy, programmatic, and financial planning: (1) prevention of substance abuse and mental illness, (2) health care and health systems integration, (3) trauma and justice, (4) recovery support, (5) health information technology, and (6) workforce development. Comments may be [submitted](#) through August 18. The previous Leading Change document is [available here](#) ([SAMHSA, 7/29](#)).

- **CMS clarifies ACA reforms for U.S. territories, IRS finalizes subsidy and individual mandate regulations.** To resolve complications in their health insurance markets, on July 16, CMS [informed](#) Puerto Rico, the U.S. Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands that numerous ACA market reforms will no longer apply to health insurers operating in their territories. The ACA's market reforms previously applied to U.S. territories, though the **individual mandate** did not apply and **Health Insurance Marketplace** subsidies were not available. The waived requirements include guaranteed availability, community ratings, single risk pools, rate reviews, medical loss ratios, and **essential health benefits**. Separately, the IRS finalized a [rule](#), implementing the procedures for Marketplace consumers to adjust their ACA subsidies based on actual annual income. The rule also caps the maximum **individual mandate** penalty on a 2014 tax return at \$2,448. Previously, the ACA specified that the penalty during the 2014 tax year would be \$95 or one percent of an individual's income, whichever is greater. Finally, the IRS released [draft forms](#) for employers that will be subject to the ACA's **employer mandate**, which goes into effect in 2015 for businesses with more than 100 full-time-equivalent employees (FTEs) and in 2016 for businesses with 50 to 99 FTEs ([The Hill, 7/24](#); [AP via New Orleans Times-Picayune, 7/24](#); [Politico, 7/24](#)).

State News

- **CMS asks AK, CA, KS, MI, MO, and TN to address Medicaid eligibility determination backlog.** In response to Medicaid enrollment delays, CMS [formally asked](#) Alaska, California, Kansas, Michigan, Missouri, and Tennessee to provide updated plans that address their backlogged Medicaid enrollment applications. According to CMS, the states' Medicaid eligibility and enrollment systems have gaps that prevent the timely processing of applications, including an inability to transfer account information from their state's **Health Insurance Marketplace**. In June 2014, *Kaiser Health News* estimated that over 1.7 million individuals' Medicaid applications were still pending, nationwide ([Kaiser Health News, 7/10](#); [Kansas Health Institute, 7/10](#)).
- **AL, CO, IA, MD, MS, and NM to maintain Medicaid reimbursement increase.** On July 31, *Kaiser Health News* (KHN) reported that Alabama, Colorado, Iowa, Maryland, Mississippi, and New Mexico have announced plans to maintain the ACA's temporary Medicaid reimbursement rate for primary care physicians. According to KHN, each of the states will use their own funds to maintain the increased rate for one year, after it is scheduled to expire at the end of 2014. In addition, Alaska and North Dakota offered a higher reimbursement rate before the ACA provision took effect and will continue to do so after 2014 ([Kaiser Health News, 7/31](#)).
- **KY and NM reauthorize Health Insurance Marketplaces, MN continues development.** To continue its operations and meet ACA self-financing requirements, **Kentucky Governor Steve Beshear** (D) issued an [executive order](#) reauthorizing and funding the state's **Health Insurance Marketplace**. Under the order, a previously enacted one percent premium assessment on all Marketplace plans will fund the Marketplace beginning January 1, 2015. Meanwhile, **New Mexico's Marketplace Governing Board** voted to continue using **Healthcare.gov** as its consumer portal while development continues on a state-based software platform. New Mexico also awarded **BVK** a \$6.2 million contract to continue overseeing Marketplace advertising and outreach efforts. Finally, **Minnesota's Marketplace** awarded **Deloitte** an additional \$3.2 million

to continue implementing information technology improvements to the state's consumer portal ([Lexington Herald-Leader, 7/2](#); [AP via Fox Business, 7/25](#); [Milwaukee Business Journal, 7/29](#); [Pioneer Press, 7/30](#)).

- **California: Los Angeles and San Francisco Counties implement Laura's Law.** In separate moves, the **Los Angeles County Board of Supervisors** and the **City and County of San Francisco Board of Supervisors** each voted to implement **Laura's Law**. Passed by the California Legislature in 2002, counties may opt-in to the law, which allows courts to order individuals with **serious mental illness** (SMI) and a recent history of psychiatric hospitalization or violent behavior into outpatient treatment without their consent. Los Angeles County officials estimate that implementing the law will require \$10 million annually, which they plan to obtain from existing state mental health programs and Medicaid. Until 2014, **Nevada County** was the only county to implement Laura's Law; however, **Yolo** and **Orange Counties** also implemented the law this year ([Los Angeles Times, 7/8](#); [Los Angeles Times, 7/15](#)).
- **Florida launches Medicaid managed care plan for individuals with serious mental illness.** On July 1, the **Florida Department of Children and Family Services** (FDCFS) launched a Medicaid managed care plan exclusively for individuals with **serious mental illness** (SMI). Overseen by **Magellan Complete Care**, the plan is the first SMI-specific Medicaid managed care plan in the nation and is expected to cost \$1.5 billion over five years while covering 140,000 enrollees. According to FDCFS, eligible individuals with SMI will be automatically enrolled in the plan and will have 90 days to opt-out, in favor of another managed care plan ([Kaiser Health News, 7/7](#); [Fierce Health Payer, 7/7](#)).
- **Kentucky begins licensing pastoral behavioral health counselors.** On July 15, the **Kentucky Cabinet for Public Protection** began offering **Pastoral Counseling Licenses** to pastors who are also professional behavioral health counselors. Authorized under a bill ([SB61](#)) signed by **Kentucky Governor Steve Beshear** (D) in May 2014, the license is available to pastors with a Masters Degree in Pastoral Counseling who meet all other state requirements for licensed counselors, including 1,375 hours of supervised practice and 250 hours of clinical work and supervision. Pastors must also pass a written exam approved by the **Kentucky Board of Licensed Professional Counselors**. Kentucky is the sixth state to license pastoral counselors after Arkansas, Maine, New Hampshire, North Carolina, and Tennessee ([Lexington Herald-Leader, 7/13](#)).
- **Massachusetts approves new substance abuse treatment mandate.** To expand access to substance abuse treatment services, the **Massachusetts Legislature** approved a bill ([S2341](#)), requiring all commercial and Medicaid managed care plans to cover services provided by licensed alcohol and drug counselors. The bill also requires plans to cover "abuse deterrent" prescription drugs, which are classified as drugs that contain "physical or chemical barriers" that prevent abuse or use a delivery system that "offers resistance to abuse." Among other requirements, the bill also prohibits prior authorization requirements for acute substance abuse treatment services and clinical stabilization services of up to 14 days. Additionally, the bill requires the **Massachusetts Center for Health Information and Analysis** to release a report on the denial rates for substance abuse treatment claims. According to **Massachusetts Senate**

President Therese Murray (D), the bill is expected to cost the state \$20 million annually. **Massachusetts Governor Deval Patrick** (D) is expected to sign the bill ([Mass Live, 7/31](#)).

- **New Hampshire launches state's first veterans' court.** On July 9, **New Hampshire Governor Maggie Hassan** (D) announced the creation of the **Veterans Behavioral Health Track Court**, the state's first veterans' court. Located in Nashua, the court will handle criminal cases for veterans whose crimes are determined to stem from service-related substance abuse, trauma, or anger management conditions. According to the court's presiding judge, the court will focus on providing intensive treatment services to veterans and will include family outreach programs ([AP via New Hampshire Public Radio, 7/10](#); [AP via Military Times, 7/10](#)).
- **New Hampshire allocates \$11.4 million to implement mental health settlement.** On July 11, **New Hampshire Governor Maggie Hassan** (D) signed a bill ([HB 1635](#)) to implement a 2013 [settlement](#) between the **New Hampshire Department of Health and Human Services** (NHDHHS), the **U.S. Department of Justice** (DOJ), and the **Disability Rights Center**. The bill provides \$9 million in state and federal funding for NHDHHS to increase access to mental health services. As directed under the settlement, NHDHHS will expand coverage of its Assertive Community Treatment teams, create three mobile mental health crisis teams, expand supported employment assistance and housing opportunities for individuals with mental illness, and send more individuals to community-based services. The settlement requires New Hampshire to fully implement all its reforms by the end of FY2017, which the state estimates will cost an additional \$34.3 million ([Office of New Hampshire Governor Hassan, 7/11](#)).
- **New York reaches \$32.2 million behavioral health settlement with insurer.** On July 9, **New York Attorney General Eric Schneiderman** (D) announced a \$32.2 million agreement with **EmblemHealth** to settle allegations that the insurer violated New York's 2006 parity act, [Timothy's Law](#). Under the act, health insurers must provide behavioral health coverage comparable to medical coverage, including at least 30 days of inpatient care, 20 days of outpatient care, and consistent cost-sharing requirements. According to Attorney General Schneiderman, EmblemHealth did not cover residential behavioral health services for 1.4 million enrollees and charged higher copayments for behavioral health services than for general medical services. Under the settlement, EmblemHealth agreed to pay a \$1.2 million civil penalty, cover residential services for all enrollees, reduce outpatient behavioral health copayments, consent to monitoring by an external entity, reform its behavioral health claims processes, and submit over 15,000 previously denied behavioral health claims for independent review. Noting that the independent review could result in up to \$31 million in restitution for enrollees, the Attorney General said that EmblemHealth denied 64 percent more behavioral health claims than medical claims, including 36 percent of inpatient psychiatric treatment claims and 41 percent of inpatient substance abuse treatment claims ([Office of Attorney General Schneiderman, 7/9](#); [Wall Street Journal, 7/8](#)).
- **West Virginia launches Medicaid behavioral health home program.** On July 1, the **West Virginia Department of Health and Human Resources** (WVDHHR) launched a **Medicaid health homes program** available in Cabell, Kanawha, Mercer, Putnam, Raleigh and Wayne Counties. Under the program, health care teams will help enrollees manage their physical and behavioral

health conditions and support their recovery efforts. According to WVDHHR, the counties selected to participate in the program have higher rates of individuals with behavioral health conditions than other West Virginia counties ([WVDHHR, 7/11](#); [AP via West Virginia Public Broadcasting, 7/11](#)).

Financing Reports

- **ACA reforms saved 8.2 million Medicare enrollees over \$11.5 billion on prescription drugs since 2010.** [“Medicare Part D donut hole savings summary 2010 through June 2014”](#) CMS. July 2014 ([HHS, 7/29](#)).
- [“Comparison of benefits and cost sharing in Children’s Health Insurance Programs to qualified health plans”](#) Wakely Consulting Group on behalf of RWJF. Bly, A. et al. July 2014 ([Kaiser Health News, 7/29](#)).
- [“Early effects of medical loss ratio requirements and rebates on insurers and enrollees”](#) U.S. Government Accountability Office. July 2014 ([Modern Healthcare, 7/10](#)).
- [“Financial alignment demonstrations for dual eligible beneficiaries: A look at CMS’s evaluation plan”](#) KFF. Musumeci, M. July 18, 2014.
- [“Financial and administrative alignment demonstrations for dual eligible beneficiaries compared: States with memoranda of understanding approved by CMS”](#) KFF. Musumeci, M. July 24, 2014.
- [“Halbig v Burwell: Potential implications for ACA coverage and subsidies”](#) Urban Institute. Blumberg, L. et al. July 2014.
- [“Health care coverage under the Affordable Care Act — A progress report”](#) *New England Journal of Medicine* 371(3): 275-281. Blumenthal, D. & Collins, S. July 17, 2014.
- [“Health insurance coverage and the receipt of specialty treatment for substance use disorders among U.S. adults”](#) *Psychiatric Services* 65(8) Brief Report. Cummings, J. et al. August 1, 2014.
- **Health insurers refunded \$330 million under medical loss ratio rules in 2013.** [“Consumers benefitted from 80/20 rule in 2013”](#) CMS. July 2014 ([Reuters, 7/24](#)).
- **HHS: New Jersey should redistribute \$45.2 million in increased Medicaid funding.** [“New Jersey did not comply with Recovery Act requirements for receiving increased federal Medicaid assistance”](#) HHS OIG. July 14, 2014.
- [“Implementing the Affordable Care Act: State action on quality improvement in state-based marketplaces”](#) Commonwealth Fund. Dash, S. et al. July 2014 ([Fierce Health Payer, 7/31](#)).
- **Louisiana provided \$2.7 million in ineligible Medicaid reimbursements for incarcerated enrollees.** [“Medicaid participant fees paid for incarcerated individuals: Department of Health and Hospitals”](#) Louisiana Legislative Auditor. July 2, 2014 ([New Orleans Times-Picayune, 7/7](#)).
- [“Measuring Medicaid and CHIP enrollment progress under the Affordable Care Act: An update”](#) RWJF. Dubay, L. et al. July 2014.
- **Medicaid: Per enrollee spending grew more slowly than medical cost inflation from FY2007 through FY2012.** [“Medicaid spending growth in the Great Recession and its aftermath, FY 2007-2012”](#) KFF. Young, K. et al. July 3, 2014.
- [“National Drug Control Strategy 2014”](#) Office of National Drug Control Strategy. July 2014.

- **Navigators provided ACA enrollment assistance to 10.6 million individuals.** [“Survey of Health Insurance Marketplace assister programs: A first look at consumer assistance under the Affordable Care Act”](#) KFF. Pollitz, K. et al. July 15, 2014.
- **Over three-fifths of uninsured individuals reside in states not expanding Medicaid.** [“Who are the remaining uninsured as of June 2014?”](#) Urban Institute. Shartz, A. et al. July 29, 2014.
- **Public health care spending totaled \$1.2 trillion in FY2012.** [“The 2014 long-term budget outlook”](#) Congressional Budget Office. July 2014 ([Washington Post, 7/15](#)).
- **State mental health authorities’ annual funding for inpatient state psychiatric hospitals increased from \$3.9 billion in FY1981 to \$9.1 billion in FY2012.** [“The vital role of state psychiatric hospitals”](#) National Association of State Mental Health Program Directors (NASMHPD). Parks, J. et al. July 2014.
- **“State mental health policy: Back to the future: New Mexico returns to the early days of Medicaid managed care”** *Psychiatric Services* 65(8): 970-972. Willging, C. & Semansky, R. August 1, 2014.
- **“States’ increased reliance on funds from health care providers and local governments warrants improved CMS data collection”** GAO. July 29, 2014.
- **Study: 10.3 million individuals gained health coverage during first ACA open enrollment period.** [“Health reform and changes in health insurance coverage in 2014”](#) *New England Journal of Medicine* Special Report. Sommers, B. et al. July 23, 2014 ([HHS, 7/23](#)).
- **“The uninsured population in Texas: Understanding coverage needs and the potential impact of the Affordable Care Act”** KFF. Young, K. & Garfield, R. July 11, 2014.
- **Trustees’ report finds Medicare Fund solvent through FY2030.** [“2014 Annual report of the Boards of Trustees of the Federal Hospital Insurance and Federal Supplementary Medical Insurance Trust Funds”](#) The Board of Trustees of the Federal Hospital Insurance and Federal Supplementary Medical Insurance Trust Funds. July 28, 2014 ([CMS, 7/28](#)).
- **“What worked and what’s next? Strategies in four states leading ACA enrollment efforts”** KFF. Artiga, S. et al. July 16, 2014.